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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,838

09/05/2006

Mikael Jansch

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EXAMINER

GARRETT, ERIKA P

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

08/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,838

Applicant(s)

JANSCH, MIKAEL

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/8/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: the term "lose" should be replaced with "losing". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. In claim 1, the phrase "which is arranged perpendicular to the central plant of the bicycle", is unclear why the applicant is defining limitations with respect to the bicycle?
5. In claim 1, the phrase "adjustably fixable", unclear and confusing. How can it be both "adjustable" and "fixable"? Does the applicant mean adjustably mounted?
6. Claim 1 recites the limitations "the central plant of the bicycle, the meeting surfaces, the uppermost layer, undermost" in lines 5, 8-9, and 12. There is insufficient antecedent basis for this limitation in the claim.
7. Currently, "undermost one" and "uppermost layer" lack antecedent basis and are actually inferentially claimed. Applicant has defined "at least three layers" which implies that three would be more. Nowhere has he defined that one layer is an undermost layer and "the uppermost layer". Applicant needs to define the "at least three layers" as an

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undermost layer, middle cushion layer, and an uppermost layer so that the claim is clear.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2 so far as understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker (4,387,925) in view of Yates (6,030,035). Baker discloses the use of a bicycle seat (9) including two separated support portions (10,11) each one for supporting one of the bicycle rider's upper seat bone, the two support portions being mounted on a joint bar (15), which is arranged perpendicular to the central plant of the bicycle, characterized in the combination that each one of the support portions is adjustably fixable mounted on said bar. The thickness of the cushion layer is increasing in the direction towards the front edge of the support portion and the two support portions (10,11) can be fixed on the mounting bar with different mutual distances.

10. Baker fails to show the use of at least three layers which are secured to each other by means of the meeting surfaces, undermost layers being nonflexible, layer being a cushion, which is elastic, uppermost layer being rigid on its plane; the elasticity is such that the surface pressure from the rider's seat bone caused by the up and down

movement of rider's legs is taken up by the cushion layer without the cushion layer loses its elasticity.

11. Yates teaches the use of at least three layers (10,22,58,20) which are secured to each other by means of the meeting surfaces, undermost layers being nonflexible, layer being a cushion (22,58), which is elastic, uppermost layer being rigid (10, plastic) on its plane; the elasticity is such that the surface pressure from the rider's seat bone caused by the up and down movement of rider's legs is taken up by the cushion layer without the cushion layer loses its elasticity.

12. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the seat with three layers as taught by Yates, in order to provide a comfortable seat for the user.

13. Claims 3-4 and 7 so far as understood are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Barker and Yates as applied to claims 1-2 above, and further in view of Garland (7,059,674). The combination of Barker and Yates fails to show the use of a layer made from leather, metal and woven material.

14. Garland teaches the use of a layer made from metal and woven material.

15. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the seat with leather, metal and woven material as taught by Garland, in order to provide stronger but comfortable seat to the user.

16. Claims 5 so far as understood is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Barker and Yates as applied to claims 1-2 above,

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and further in view of Kazuno (6,457,777). The combination of Barker and Yates fails to show the use of the thickness of at least 10mm and hardness of 5-70.

17. Kazuno teaches the use of the thickness of at least 10 mm and hardness of 5-70.

18. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the bicycle seat with a thickness of 10mm and hardness as taught by Kazuno, in order for seat to adjust to the user easily.

19. Claim 6 so far as understood is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Barker and Yates. The combination of Barker and Yates fails to show the use of the support portions is wider at the forward end than at the rear end.

20. It would have been an obvious matter of design choice to the support portions is wider at the forward end than at the rear end, since applicant has not shown any criticality having the support portions is wider at the forward end than at the rear end. Nor does this limitation solve any particular purpose and it appears that the support portions of the Barker and Yates references will perform equally well.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to bicycle seat: U.S Pat. No. 7059674, 6209954, 4815361, 7044540, 4319781, 6450572 and 3604748.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday 9:00 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Erika Garrett
Patent Examiner
Art Unit 3636

EG
August 24, 2007